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March 15, 2000

Mr. David S. Guzy
Chief, Rules and Publications Staff
Minerals Management Service
Royalty Management Service
P. O. Box 25165, MS 3021
Denver, CO 80225-0165

Dear Mr. Guzy:

**RE: Comments on Minerals Management Service
Supplementary Proposed Rule for
Establishing Oil Value for Royalty
Due on Indian Leases,
30 CFR Part 206, 65 FR 403
(January 5, 2000)**

Conoco Inc. ("Conoco") welcomes this opportunity to submit comments to the Minerals Management Service ("MMS") with respect to the above referenced Supplementary Proposed Rule.

Conoco is an integrated oil and gas company with operations in over 40 countries worldwide. During the five-year period ending December 31, 1999, Conoco remitted royalty payments to the MMS in excess of \$360 million.

Conoco adopts by reference our previous comments filed in this proceeding. Further, Conoco adopts by reference, comments recently filed by the American Petroleum Institute in this rulemaking. Additionally, since many of the proposals in the Supplemental Indian Oil Valuation rule parallel the recent Federal Oil Valuation rule, we adopt and incorporate by reference all of Conoco's comments as well as the comments filed therein by the industry coalition consisting of the American Petroleum Institute, Independent Producer's Association of America, Domestic Petroleum Council, and the United States Oil and Gas Association. Finally, we adopt and incorporate by reference the comments filed in this proceeding by the Council of Petroleum Accountants Societies.

Valuation of Indian Oil

Under §206.52, MMS proposes that the value of oil produced from Indian leases will be the higher of gross proceeds or the index method on a monthly basis. Moreover, MMS proposes to do a major portion analysis and if that results in a value that is higher than either the gross proceeds or the monthly index methods, then additional royalties would be due. The valuation methodology proposed by MMS is inconsistent with the lease terms of the standard Indian leases.

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Conoco concedes that the standard lease provisions state that value may, at the discretion of the Secretary, be calculated on the highest price paid or offered at the time of production for the major portion of the oil of the same gravity. However, Conoco does not believe that the Secretary's discretion extends to permit unilateral changes or wholesale violation of the lease terms. Performing a major portion analysis on artificial value (i.e., index prices) is not in compliance with the lease terms. MMS has not shown that the value arrived at under the index method is a value "paid or offered" in the field. Also, MMS offers no evidence showing that the gravity of market center oil would be the same as the gravity of oil produced in the field.

Conoco has commented at great length on why the proposed market center netback method does not result in a fair or reasonable value at the lease. We again direct MMS to our previously filed comments.

The comparison of gross proceeds to the index method creates an unwarranted administrative burden. While existing accounting systems have the ability to determine value differently: they do not have the ability to compare values and pay on the higher value. That comparison must be done manually. At the February 8, 2000, Public Hearing in Denver, it was stated that sales of oil from only one Indian Tribe's lands resulted in gross proceeds that exceed the index method. It seems to be unreasonable to require lessees to perform manual activities when the result is already known. Conoco recommends that if MMS insists on the continuation of the index methodology to determine value for royalty purposes, then any further comparison to gross proceeds should be eliminated.

Major Portion

Conoco is opposed to the elimination of the 120-day time frame for MMS to complete the major portion calculation. The 120-day time frame provides certainty and its elimination provides uncertainty. Lessees have the right to know what their royalty obligation is on a timely basis. If MMS needs more time to perform the calculation, we would recommend 180 days. Conoco is not opposed to providing more time to MMS, but we firmly believe that a set time limit is mandatory.

Also, Conoco does not believe that 30 days is enough time to report any additional royalties due under the major portion calculation. In reality, the 30 days could be only 1 or 2 days depending on when MMS published the major portion value. We recommend that the 30-day time frame be change to 60 days.

Transportation

Conoco supports the changes MMS made to transportation allowances.

It was stated at the February 8 Public Hearing that a producer who sold its oil at the lease could use the purchaser's transportation cost from the lease to the aggregation point in the index calculation. Conoco recommends that this provision be added to the

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final rule, as well as guidance on what to do in situations where the purchaser will not provide the needed information.

Form MMS-4416

Conoco recommends that the information collection be totally eliminated. We do not believe that there will be a sufficient number of transactions involving Indian oil between the aggregation points and the market centers to provide an adequate basis for determining valid differentials.

Assuming arguendo, that the MMS continues the requirement to collect information, Conoco recommends that the Sulfur Content % and Parafin Content % be eliminated from the form. Conoco is a significant purchaser of lease production and we do not typically test oil for sulfur or parafin content. We may initially test the oil when we contract for its purchase, but after that it is only tested if a concern arises. Because there are civil and criminal penalties for inaccurate reporting [and the potential for needless qui tam suits], we are of the opinion that the reporting of these relatively unimportant data elements can not be done accurately, and should be eliminated.

Also, MMS needs to clarify in the "Step-by-Step" instructions who "you" is where it stated that "if you produce, sell, purchase, exchange, or refine oil produced from Indian leases...." If "you" is intended to be someone other than the lessees, Conoco is opposed to MMS placing an information collection requirement on persons who have no nexus to the property.

Binding Valuation Determinations

Conoco notes that MMS has not included language regarding binding valuation determinations in this rule. We recommend that such language be included in the final rule as we believe that Indian lessees are entitled to the same degree of certainty as Federal lessees.

Conoco appreciates the opportunity to comment on this rule. If you have any questions, please contact me at the above address or at (580) 767-5044.

Sincerely,


John E. Clark

mdb
cc:
Mr. Bruce Connell, Houston, TX
Mr. John Haley, Houston, TX